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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

7 JESSE CLYDE BURLESON, No. C 08-01853 SBA (PR)

8 v. Petitioner,

9 CALIFORNIA DEPARTMENT OF  
10 CORRECTIONS AND REHABILITATION,

11 Respondent.

**ORDER GRANTING IN FORMA  
PAUPERIS STATUS; GRANTING  
PETITIONER'S REQUEST FOR A  
CERTIFICATE OF APPEALABILITY;  
AND TERMINATING REMAINING  
PENDING MOTIONS AS MOOT**

12 \_\_\_\_\_ / (Docket nos. 17, 20, 22)

13 Petitioner, a state prisoner, has filed a notice of appeal of this Court's judgment dismissing as  
14 time-barred his petition for a writ of habeas corpus under 28 U.S.C. § 2254. Petitioner also seeks a  
15 certificate of appealability (COA) pursuant to 28 U.S.C. § 2253(c) and Federal Rule of Appellate  
16 Procedure 22(b). He has also filed an application to proceed in forma pauperis (IFP) on appeal  
17 (docket no. 22).<sup>1</sup>

18 Because reasonable jurists could disagree with this Court's conclusion that Petitioner's  
19 application is time-barred, Petitioner's request for a COA is GRANTED. See, e.g., Thomas v.  
20 Greiner, 174 F.3d 260, 261 (2d Cir. 1999) (district court may grant certificate of appealability under  
21 28 U.S.C. § 2253(c) on whether habeas petition is time-barred).

22 For the foregoing reasons, the Court GRANTS Petitioner's request for a COA (docket no.  
23 17). Petitioner's application to proceed IFP on appeal (docket no. 22) is GRANTED.

24 The Clerk of the Court shall forward to the Ninth Circuit Court of Appeals the case file with  
25 this Order. See United States v. Asrar, 116 F.3d 1268, 1270 (9th Cir. 1997). All remaining pending  
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28 <sup>1</sup> Petitioner previously filed a motion for an extension of time to file his application to  
proceed IFP on appeal (docket no. 20). Because Petitioner has since filed his application to proceed  
IFP appeal (docket no. 17), his motion for an extension of time is DENIED as moot.

1 motions, including his motion for an extension of time to file his application to proceed IFP on  
2 appeal (docket no. 20), are terminated as moot.

3 This Order terminates Docket nos. 17, 20 and 22.

4 IT IS SO ORDERED.

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6 DATED: 3/2/10  
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SAUNDRA BROWN ARMSTRONG  
United States District Judge

1 UNITED STATES DISTRICT COURT  
2 FOR THE  
3 NORTHERN DISTRICT OF CALIFORNIA

4 JESSE CLYDE BURLESON,

5 Plaintiff,

Case Number: CV08-01853 SBA

6  
7 **CERTIFICATE OF SERVICE**

8 DIRECTOR CA DEPT OF CORRECTIONS et  
9 al,

10 Defendant.

11  
12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District  
13 Court, Northern District of California.

14 That on March 4, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said  
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said  
16 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle  
located in the Clerk's office.

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19 Jesse Clyde Burleson D-90284  
20 Mule Creek State Prison  
21 P.O. Box 409020  
22 Ione, CA 95640

23 Dated: March 4, 2010

24 Richard W. Wiking, Clerk  
25 By: LISA R CLARK, Deputy Clerk